

## **REMARKS**

### **Summary**

Claims 38, 41-54, and 56-59 were pending. In the present response, claims 38, 41, 42, 44-50, 54, and 59 are amended. No new matter has been added.

Accordingly, claims 38, 41-54, and 56-59 are pending and under consideration.

### **Rejections Under 35 USC 112**

Claims 38, 41-54, and 56-59 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 38 has been amended herein thus obviating the rejection.

### **Rejections Under 35 USC 103**

#### **Claims 38, 41-46, 48, 49, 54, and 56-58**

Claims 38, 41-46, 48, 49, 54, and 56-58 were rejected under 35 USC 103(a) over US Patent No. 5,141,044 to Hying et al. (Hying) in view of US Patent No. 4,519,474 to Iseli et al. (Iseli). Applicant respectfully traverses the rejections in light of the amendments to the claims and the remarks below.

Hying and Iseli fail to provide each of the features of claim 38. Neither Hying nor Iseli provide a stabilizing element having an embedded leaf spring and elastically deformable lower and lateral contact surfaces.

Hying does not provide a leaf spring.

In addition, Hying does not provide elastically deformable lateral contact surfaces. Hying provides an elastically deformable lower surface, but the lateral portion of the terminal end of the door comprises the metal bottom bar 20, clearly a feature that does not permit elastic deformation in a transverse direction. This is significant as a person or object contacting the door of Hying laterally would be at risk of injury or damage when contacting the metal bar 20.

Iseli is cited for teaching a leaf spring. However, Iseli provides safety beading that is singularly disposed to have an elastically deformable lower contact surface (shown in Figure 4). The lateral portions of the safety beading are intended to be further embedded in a carrier to provide protection to the safety beading and to ensure that contact that would interrupt the functioning of the device is provided by “head-on” contact. In Iseli, such contact is only experienced by the lower exposed surface of the safety beading, as would be expected in its primary intended use as a vehicle safety bumper.

By contrast, claim 38 provides for multiple contact surfaces. The different restoring forces discussed previously are particularly important because of the multiple contact surfaces that are impacted in the roll-up door of claim 38.

Hying and Iseli, singularly or in combination, fail to provide the lateral deformable contact surfaces as defined in claim 38.

For the above reasons, claim 38 is patentable over Hying and Iseli.

Claims 41-46, 48, 49, 54, and 56-58 are dependent, directly or indirectly, on claim 38 and thus are patentable over Hying and Iseli for at least the same reasons discussed above with respect to claim 38.

#### Claims 45, 57, and 58

In addition to the reasons described above, claim 45 provides features not taught or suggested by the cited references. Claim 45 provides a safety device accommodated in the channel of the elastically deformable stabilizing element configured to switch off and/or trigger a change in direction of a drive device coupled to the closing element in response to deformation of the elastically deformable stabilizing element.

The Office Action refers to Hying for teaching such an element. Hying provides a breakaway shaft associated with the roll-up door. Notably, the breakaway shaft is not associated with an elastically deformable stabilizing element. In Hying, the stabilizing element has two primary parts, a deformable safety edge 21, and a rigid bar 20 including the breakaway shaft. By contrast, in claim 45, the recited elastically

deformable stabilizing element is the portion of the door that includes the channel, and accommodated in the channel is the safety device, which is configured to switch off and/or trigger a change in direction of a drive device coupled to the closing element in response to deformation of the elastically deformable stabilizing element. This arrangement is distinguishable from that of Hying both in structure and performance. The recited features of claim 45 permit the drive device to be switched off and/or triggered by deformation of the elastically deformable stabilizing element, whereas in Hying, the device may be actuated by sufficient impact to the metal bar 20 to dislodge the breakaway shaft. The recited features of claim 45 clearly provide a different structure, and such differences reduce the potential injury or damage that would likely occur upon impact with the metal bar 20 of Hying.

Claim 45 is thus patentable over the cited references for these additional reasons.

Claims 57 and 58 contain language similar to that of claim 45 and thus are patentable over the cited references for at least the same reasons. In addition, claims 57 and 58 describe specific orientations of multiple leaf springs and a safety device, each of which are not taught or suggested by the cited references. As indicated previously, the cited references do not even recite the inclusion of a safety device within the elastically deformable stabilizing element, much less the specific embodiments provided by claims 57 and 58.

#### Claim 54

In addition to the reasons described above, claim 54 provides features not taught or suggested by the cited references.

Claim 54 provides that the elastically deformable stabilizing element has a general thickness in a direction perpendicular to the closing direction that is greater than in the closing direction. The orientation of the stabilizing element itself thus provides for the differential restoring forces identified in claim 38. A stabilizing element configured with a greater “width” than “height” as described in claim 54, ensures that the “restoring force to counteract a contact deformation of opposing lateral exterior elastically

deformable contact surfaces of said stabilizing element in a direction transverse to each of said at least one closing element when each of said at least one closing element is in said closed position” is greater than the “restoring force to counteract a contact deformation of the elastically deformable lower contact surface of said stabilizing element in a direction opposite to a closing direction when each of said at least one closing element is in said closed position. . . .”

Hying does not provide an elastically deformable stabilizing element providing such features, but rather provides a rigid bar 20 for lateral support and a lower safety edge 21, having an overall thickness/width that is less than the vertical dimension (height). The structure of Hying is thus different, and Hying instead provides restoring forces at the risk of potential injury or damage due to the laterally exposed metal bar 20.

#### Claim 47

Claim 47 was rejected under 35 USC 103(a) over Hying, in view of Iseli, and further in view of US Patent No. 5,399,851 to Strand (Strand). Claim 47 is dependent on claim 38 and thus is patentable over Hying and Iseli for at least the same reasons as discussed above. Strand fails to overcome the deficiencies of Hying and Iseli, and thus claim 47 is patentable over the combination of the cited references.

#### Claims 50-53 and 59

Claims 50-53 and 59 were rejected under 35 USC 103(a) as being unpatentable over Hying in view of Iseli and further in view of US Patent No. 3,292,685 to Clark (Clark).

Claims 50-53 and 59 are dependent, directly or indirectly, on claim 38 and thus are patentable over Hying and Iseli for at least the same reasons as discussed above. Clark fails to overcome the deficiencies of Hying and Iseli, and thus claims 50-53 and 59 are patentable over the combination of the cited references.

In addition, claim 50 provides an intake system situated at an upper edge of the guide element configured to introduce the lateral edge of the closing element into the guide element. The intake system aligns/centers the closing element for entry into the

guide element. The intake system (not the guide element) comprises oppositely situated delimiting surfaces. Clark is cited for these features, but Clark simply provides weather stripping that may be provided in a single elongated guide channel. Thus, Clark does not provide weather stripping in a separate intake system to align and center the door for entry into a guide element. Rather, Clark is a single uniform channel.

In referring to claim 59, the Office Action cites to the uppermost region of the guide channel of Clark as teaching the claimed intake system. However, the uppermost region of the guide channel of Clark is simply that; the uppermost region of the guide channel. Claim 50 recites a separate intake system situated at an upper edge of the guide element. The relationship is described in the Specification and illustrated in Figure 2. The claimed relationship is clearly distinguishable from that of Clark.

In addition, even assuming that the uppermost region of the guide channel of Clark could be construed to be an intake system, that portion of the guide channel does not include “oppositely situated delimiting surfaces” as recited in claim 50.

Further, with respect to claim 59, even assuming that the uppermost region of the guide channel of Clark could be construed to be an intake system, that portion of the guide channel does not include “oppositely situated delimiting surfaces . . . separated laterally by a width greater than the width of the channel of the at least one guide element” as recited in claim 59. The Office Action points to the distance between each of the offset terminal points of the guide channel of Clark as being the “width” of the intake system. However, one of ordinary skill in the art would not understand the term “width” to refer to a diagonal line angled across a longitudinally disposed object. For such an object, the term “width” generally refers to a distance across the object at a right angle to the longitudinal axis. Also, claim 59 provides further specificity to the arrangement by indicating that the “width” that is “greater than the width of the channel of the at least one guide element” is the width of the “oppositely situated delimiting surfaces of the intake system. . . .” Such “oppositely situated delimiting surfaces” are not provided by Clark.

The orientation of the guide element and the intake system in claims 50-53 and 59 provides a defined configuration to enable threading the closing element from the

intake system to the guide element. The recited features are not taught or suggested by the cited references. For these additional reasons, claims 50-53 and 59 are patentable over the combination of Hying, Iseli, and Clark.

**Conclusion**

In view of the foregoing, Applicant respectfully submits that all the claims are in condition for allowance, and early issuance of the Notice of Allowance is respectfully requested.

If the Examiner has any questions, he is invited to contact the undersigned at (503) 796-2844. Please charge any shortages and credit any overages to Deposit Account No. 500393.

Respectfully submitted,  
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